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REPORT OF THE SECRETARY-GENERAL PURSUANT TO SECURITY COUNCIL RESOLUTION 815 (1993)

INTRODUCTION

1. In paragraph 3 of its resolution 815 (1993) of 30 March 1993, the Security Council decided to reconsider one month after the date of that resolution or at any time at the request of the Secretary-General, the mandate of the United Nations Protection Force (UNPROFOR), in the light of developments of the International Conference in the former Yugoslavia (ICFY) and the situation on the ground. In paragraph 6 of the same resolution, the Council requested the Secretary-General to report urgently to the Council on how the United Nations Peace Plan for Croatia could be effectively implemented. In paragraph 4, the Council also decided to extend UNPROFOR's mandate for an additional interim period terminating on 30 June 1993. The following report is therefore submitted to provide the Council with an interim assessment of developments relating to UNPROFOR's mandate in Croatia.

I. THE UNITED NATIONS PEACE-KEEPING PLAN FOR CROATIA

2. The United Nations mandate in Croatia derives principally from the following Security Council resolutions: resolution 743 (1992) of 21 February 1992, which established UNPROFOR in accordance with the Peace-keeping Plan (S/23280, annex III) concerning the United Nations protected areas (UNPAs) in Croatia; resolution 762 (1992) of 30 June 1992, which established a Joint Commission to oversee the progressive return of the "pink zones" to Croatian authority; resolution 769 (1992) of 7 August 1992, which provided for UNPROFOR to establish border controls at international crossing points leading into the UNPAs; resolution 779 (1992) of 6 October 1992, which dealt with the Prevlaka peninsula and approved UNPROFOR's taking control of the Peruca dam; resolution 802 (1993) of 25 January 1993, calling for a cease-fire and other steps subsequent to the Croatian armed incursion of 22 January 1993; resolution 807 (1993) of 19 February 1993, making further provisions following upon the events of 22 January and thereafter, and extending UNPROFOR's mandate until 31 March 1993; and resolution 815 (1993) of 30 March 1993, which extended UNPROFOR for another interim period until 30 June 1993. The Secretary-General has reported regularly to the Council regarding the progress made by UNPROFOR in respect of these main resolutions.

3. The Peace-keeping Plan for Croatia provided for the withdrawal of the Yugoslav People's Army (JNA) and the demilitarization of the UNPAs, the return of refugees, the re-establishment of police forces, and associated matters relating to the intended process of normalization. As most recently reported on 10 February 1993 (S/25264 and Corr.1), the experience of UNPROFOR in this respect has been mixed. Non-cooperation by the local Serb authorities in several respects, and consequent military and other actions by the Croatian authorities, have prevented the successful implementation of the Plan. The direct and indirect consequences of the Croatian incursion of 22 January have been particularly destructive. The Secretary-General has reported to the Council that UNPROFOR has not been able to establish the conditions of peace and security that would have permitted the voluntary return of refugees and displaced persons to their homes (ibid., para. 13).

4. The basic assumption underlying the Peace-keeping Plan at the time was that it was of an interim nature, that it would remain in effect only until an overall political solution had been reached and that it did not prejudge the outcome of negotiations. It was further assumed that these negotiations would be undertaken by the Conference on Yugoslavia established by the European Community under the chairmanship of Lord Carrington. A principle of that Conference, established by agreement on 4 October 1991, was that there would be no unilateral changes of borders (S/23169, para. 21). In theory, therefore, the possibility existed that the problem between the Republic of Croatia and the Serb population living in the UNPAs and the Pink Zones could be settled by an agreed adjustment of frontiers. During the negotiation of the Peace-keeping Plan, however, it was repeatedly emphasized to the local Serb leadership in what were to become the UNPAs that, in practice, the only basis for a settlement was their acceptance of Croatian sovereignty in return for guarantees of their minority rights. They never accepted this position or concealed their determination to press for independence from Croatia.

5. By August 1992, when the ICFY replaced the European Community's Conference on Yugoslavia as the forum for the negotiation of a settlement, a number or political developments had changed the framework within which such a settlement could be obtained. With the admission of Croatia as a State Member of the United Nations in May 1992, it became implicitly clear that a settlement had to be sought without change to the internationally recognized borders of that State. This was made explicit when the Security Council, in paragraph 5 of its resolution 815 (1993), resolved that it supported "the Co-Chairmen of the Steering Committee of the International Conference on the Former Yugoslavia in their efforts to help to define the future status of those territories comprising the United Nations Protected Areas (UNPAs), which are integral parts of the territory of the Republic of Croatia ..."

6. The Co-Chairmen had anyway been conducting their negotiations on this basis. But the Security Council has now made it clear formally that the international community will not entertain the claim of the local Serb authorities to recognition as a sovereign entity (the so-called "Republic of Serb Krajina"). The aspiration of the local Serbs to sovereignty has to a large extent determined their attitude towards the presence of UNPROFOR and the provisions of the Peace-keeping Plan. Their refusal to demilitarize has been based on their fear of absorption by force into Croatia.

7. An additional area of non-cooperation by the local Serbs has related to the implementation of Security Council resolution 769 (1992), which authorizes UNPROFOR to establish border controls at the international borders of the UNPAs. In the absence of such border controls, the Security Council, in paragraph 12 of its resolution 820 (1993), which imposes additional sanctions on the Federal Republic of Yugoslavia (Serbia and Montenegro), established a regime which provides that import to, export from and transshipment through the UNPAs in the Republic of Croatia and those areas of the Republic of Bosnia and Herzegovina under the control of Bosnian Serb forces, with the exception of essential humanitarian supplies including medical supplies and foodstuffs distributed by international humanitarian agencies, shall be permitted only with proper authorization from the Government of the Republic of Croatia or the Government of the Republic of Bosnia and Herzegovina respectively. On 27 April 1993, a meeting was held between UNPROFOR and the Serb authorities at which attempts were again made to secure their agreement to the implementation of resolution 769 (1992). At that meeting, the Serb side declared that, in view of resolution 820 (1993), such agreement could not at that time be considered and that they regarded the idea of Croatia regulating the commerce and trade of the UNPAs as being in direct breach of the Peace-keeping Plan.

8. As regards resolution 802 (1993), representatives of the Co-Chairmen in New York, Geneva and elsewhere have negotiated at great length with both parties to secure an agreement to implement the cease-fire and related provisions. On 6 April 1993, a provisional agreement was signed which required the endorsement of both sides (S/25555, annex). Although UNPROFOR has held three lengthy meetings with the local Serb authorities to explain how it would implement the agreement operationally, and to clarify other related matters, no such endorsement had been forthcoming from the Serb side as of 10 May 1993.

II. PEACEMAKING

9. The Co-Chairmen of the Steering Committee of the ICFY have attempted to pursue negotiations with both sides in recent weeks. It is clear that the relationship between Croats and Serbs in the Republic of Croatia is of fundamental importance to the settlement of the crisis. Unfortunately, because of what has happened in recent months, the prospects for the amicable coexistence of the two groups have receded, and if current trends are not quickly reversed, the situation may deteriorate further. The position of minority groups, which was tending to stabilize both inside and outside the UNPAs, has worsened since the events of 22 January 1993. Remaining Croats in the UNPAs have in many cases been relentlessly persecuted, suffering murder, assault, threats, armed thefts and arson. UNPROFOR has had to establish protected villages and, in the last resort, was forced to help relocate several hundred vulnerable civilians to security in Croatia with the cooperation, and sometimes at the insistence, of the Croatian Government. It has been a tragic humanitarian situation, totally at variance with UNPROFOR's duty under the Peace-keeping Plan to try to reintegrate Croat and Serb communities.

10. At the same time, the Office of the United Nations High Commissioner for Refugees (UNHCR) has reported the continued movement out of Croatia of many members of the Croatian-Serb population, often to Serbia. According to UNHCR figures dated 19 March 1993, the number of Serb refugees and displaced persons

who have fled from Croatia to Serbia and the UNPAs (approximately 251,000) now exceeds the number of Croats who were displaced from the UNPAs to Croatia.

11. It is apparent that three conditions must be met in order to provide a reasonable basis for a lasting peace:

(a) The sovereignty and integrity of the State of Croatia has to be respected;

(b) The Croat majority's basic interests have to be safeguarded and at the same time reconciled with the rights of the minority and political autonomy for the Krajina;

(c) Members of the Serb population in Croatia must be able to feel secure within the boundaries of the State, so that they do not look outside it for their fundamental safety.

12. To achieve this in the current circumstances in Croatia will require a major endeavour on the part of all concerned, under the auspices of the international community. Serb leaders in the UNPAs continue to reject the idea of being part of Croatia, asserting that "minority" status within the Republic of Croatia is unacceptable to them. Nevertheless, the various elements of the Peace-keeping Plan, and the efforts of the Co-Chairmen to negotiate arrangements for a durable solution, constitute steps in the right direction. However, the Force Commander reports, and I agree, that there should be no illusions: it is by no means clear that either group is yet ready to accept the self-limitations that would be required, nor to adopt the tolerance of ethnic or cultural pluralism which is the only guarantee of continuous stability in the State and the region. It has to be emphasized that such a solution could take some time, while confidence is re-established.

III. PRESENT SITUATION IN THE UNPAs AND PINK ZONES

13. As a consequence of the various developments described in section I above, and the lack of progress in the peacemaking efforts led by the Co-Chairmen, the present situation in the UNPAs and "pink zones" gives rise to great concern. The continuance of hostilities despite resolution 802 (1993), including repeated shelling, by both sides, of purely civilian targets, and reports of further imminent incursions, have caused tensions in the UNPAs to rise to a degree not previously encountered since the establishment of UNPROFOR. For instance, at purely civilian locations at Gospic, Zadar, Sibenik, Benkovac, Obrovac and Kistanje, shelling by mortar, artillery, tanks and rockets has become a frequent occurrence, causing deaths and other casualties, and damaging hospitals, schools and homes. On 21 April, a member of UNPROFOR'S joint Czech and Slovak battalion was killed by Croatian army shelling while fulfilling his responsibilities on behalf of UNPROFOR. The Force Commander has protested in the strongest terms in both Zagreb and Knin against these flagrant breaches of humanitarian law.

14. Restrictions imposed by the local Serb authorities on UNPROFOR's freedom of movement have been much more acute, especially in sectors North and South. All elements of UNPROFOR have been affected, but the impact on the work of United Nations Military Observers (UNMOs) and United Nations Civilian Police (UNCIVPOL)

has been particularly drastic. At times, they have been unable to move out of the main towns, and their ability to report on cease-fire matters and other events in the areas of conflict, and in respect of humanitarian situations, has been seriously weakened. Elsewhere, crossing points have frequently been closed, preventing normal passage of logistical and humanitarian convoys. Restrictions on UNPROFOR aerial movement have also been imposed, with even reconnaissance flights permitted only after negotiation of air corridors.

15. Serb attitudes towards UNPROFOR have also gravely deteriorated. In one instance, on 7 April 1993, two Nigerian soldiers were murdered at a checkpoint, and another injured. Other casualties have occurred (since 27 March, 12 other incidents of attacks on UNPROFOR have occurred, in which one UNPROFOR soldier was killed and five were wounded), and there are daily manifestations of hostility to the UNPROFOR presence, often accompanied by the pointing and cocking of weapons and aggressive behaviour at checkpoints. On 7 and 14 April, at meetings held to try to resolve these problems, the local Serb authorities told UNPROFOR's Deputy Chief of Mission that, while they regretted these various trends and incidents, and would like UNPROFOR to remain in a protective role, they were unable to restrain their population who now tended to see UNPROFOR as a hostile presence. They stated that they would like to accept UNPROFOR as a "genuine protection force", but asserted that recent developments had destroyed the basis of confidence in the Force's impartiality. Hostility has been especially marked towards battalions of certain nationalities, whose members have been forced to take special precautions for their own protection. Threats have also been conveyed to take hostage, or to exact revenge upon, UNPROFOR personnel, should any acts of armed force be undertaken by foreign Governments against Serb personnel or locations in various parts of the former Yugoslavia.

16. Though UNPROFOR continues to make daily attempts to elicit the cooperation of the Serb leadership in the UNPAs, the fundamental problem remains their unwillingness to accept the premises of UNPROFOR's mandate as defined in Security Council resolutions. On 30 April 1993, the Secretary-General received a letter from the Serb authorities asking him, inter alia, to clarify whether the original Peace-keeping Plan still existed, to "relocate" UNPROFOR "along the line of confrontation as it existed in January 1993" and stating that if their demands were not met, "somebody will have to accept responsibility before history for the possible escalation of military conflicts."

17. As the above summary of the situation in UNPROFOR's area of responsibility indicates, UNPROFOR is severely handicapped in performing its functions and its personnel are in peril. In the circumstances, it is currently not possible for UNPROFOR to fulfil its mandate in Croatia.

IV. OBSERVATIONS

18. The Council will recall that, in my report of 15 February 1992 recommending the establishment of the Force (S/23592), I had expressed my concerns about the complexities and dangers of the Yugoslav situation and stated that "there remain a number of unanswered questions about the extent to which the Force will in practice receive the necessary cooperation." (para. 28). Developments since then have done little to alleviate my original apprehension. The Serb side has taken the presence of UNPROFOR as a licence to freeze the status quo in place,

under UNPROFOR "protection", while establishing a "state" of the "Republic of Serb Krajina" in UNPROFOR's area of responsibility. The Croatian side, meanwhile, has insisted that since the Plan was drafted, the "overall political solution" that was sought at the time has been found with the recognition of Croatia and its admission to the United Nations; the Serbs must therefore accept the authority of Zagreb, which they had rebelled against in the first place. There is very little, if any, common ground between the two sides on this question.

19. Though UNPROFOR has succeeded in ensuring the complete withdrawal of JNA, in maintaining peace and in reducing the intimidation of civilians in the UNPAs, it has not been able to fulfil other aspects of the original Peace-keeping Plan. The Serbs have failed to demilitarize the UNPAs as called for in Security Council resolution 743 (1992), and as a result little progress has been made towards the return of refugees and displaced persons to their homes in the UNPAs. They have also refused to cooperate with UNPROFOR in the implementation of resolutions 762 (1992) (return of the "pink zones" to Croatian authority) and 769 (1992) (control of the borders of the UNPAs). They have also imposed restrictions on UNPROFOR's freedom of movement, especially in Sector South, which have crippled UNPROFOR's monitoring function. The Croatian side, in turn, has manifested its impatience with the United Nations by three times (June 1992, January 1993, April 1993) launching military offensives across the lines of confrontation. The view of the Government of Croatia (reiterated most recently in documents S/25447, S/25601 and S/25766) is that UNPROFOR should be given enforcement powers to oblige the Serbs to comply with Security Council resolutions, and to do so with specific objectives against a set timetable, failing which the Government has made it clear it will not agree to further extensions of UNPROFOR's mandate.

20. It is my view that, given the virtually irreconcilable positions above, the Security Council has three options:

(a) To declare the mandate unworkable in view of Serb non-cooperation, and to withdraw the Force. Though I am concerned that such a step would almost certainly lead to resumption of hostilities, which the United Nations would again be called upon to end, I believe it must be considered. At a time of considerable demands upon United Nations peace-keeping around the world, it is anomalous that the present deployment of UNPROFOR is found unsatisfactory by both sides, and that any conceivable change would require more optimism than the facts on the ground appear to warrant. Since any new proposals to change the situation described in parts I and II of the present report would require the consent of both parties, and since such consent is clearly not available, the Security Council could decide not to waste the limited resources of the international community by retaining in Croatia a large force whose mandate has proved to be un-implementable. The Council has already learned from the case of the United Nations Interim Force in Lebanon (UNIFIL) that the prolongation of a peace-keeping force whose mandate cannot be implemented becomes an expensive and open-ended commitment, with a considerable risk of casualties. By announcing its intention to withdraw UNPROFOR at the end of the present mandate (30 June), the Security Council would be sending a clear signal to the parties that only willingness on their part to negotiate seriously would persuade the international community to keep the Force in being. A variation on this approach would be to decide that UNPROFOR would be withdrawn unless the two

sides made progress in political negotiations before the end of the present mandate;

(b) To accept the Croatian view and approve enforcement action to exact compliance from the Serbs. This would be tantamount to putting UNPROFOR at war with the Serbs in the UNPAs and "pink zones". Neither the Force Commander nor I myself consider that the international community should become a party to the conflict, using military force to impose a solution on one side in what remains an inter-ethnic dispute. Nor is it clear that troop contributors would agree to make their soldiers available for such a purpose. The present size and armament of the Force would, in any event, be grossly inadequate for such a task. The enforcement option would thus also require the Security Council to expand UNPROFOR significantly. Even if Member States were to make enough troops available for the purpose, which I do not judge to be likely, I am not in a position to recommend to the Security Council that this would be a proper or worthwhile use of the United Nations limited military resources;

(c) To leave UNPROFOR in place, with no change in mandate but with limited enhancements of its military capacity. The only justification for this option is the high risks associated with the other two. In the short term, UNPROFOR would try to limit the hostilities. In the long term, it would be hoped that sanctions on the Federal Republic of Yugoslavia (Serbia and Montenegro) and mounting international pressure on the Bosnian Serbs, as well as intensified peacemaking efforts by the Co-Chairmen, would strengthen those elements amongst the Krajina Serbs who wish to cooperate in the implementation of the Security Council resolutions, thus permitting UNPROFOR to carry out its original mandate.

21. The disadvantages of this option are clear. First, the Force would remain on the same "peace-keeping" basis as at present and would thus require a degree of consent and cooperation from the parties that it does not at present enjoy, and which the Force by itself can do little to obtain until a change in the external political environment occurs. Secondly, this option would also require a change of position by the Government of Croatia, since the Security Council would in effect be asking the Croatian authorities to tolerate the status quo for a further period in the expectation of a change at an unspecified time in the future. The position of the Croatian Government has consistently been that it is not prepared to wait indefinitely for the restoration of its authority in UNPROFOR's area of responsibility. Should the Council approve this option, it would be necessary to obtain the consent of the Government of Croatia. If the Government's position remained unchanged, the Force would have to be withdrawn.

22. The retention of the Force in Croatia beyond 30 June 1993 would require the following enhancements to UNPROFOR's strength, which the Force Commander judges to be the minimum necessary:

(a) The upgrading of the Czech "mini-battalion" to full battalion strength, i.e., an additional 400 all ranks;

(b) An increase of 20 armoured personnel carriers (APCs) in each of the eight battalions which have not so far been provided with an adequate APC capacity, i.e., a total of 160 APCs, to improve the Force's defensive capacity and mobility;

(c) The addition of 50 United Nations Military Observers (UNMOs), to be distributed throughout the sectors, to enhance UNPROFOR's ability to observe and report. The UNMOs should be equipped with armoured (but unarmed) patrol cars.

23. Having considered these three options very carefully, I have concluded that it would not be advisable for me at this moment to recommend that the Council adopt any of the options. The political and military situation, not only in Croatia but also in Serbia and Bosnia and Herzegovina, is highly volatile. I have also just appointed Thorvald Stoltenberg as the new United Nations Co-Chairman of the Steering Committee of the ICFY and also as my Special Representative in the former Yugoslavia. Before making a recommendation to the Council about the future of UNPROFOR in Croatia, I would prefer to await a report from Mr. Stoltenberg after his forthcoming visit to the area.

24. In the circumstances described in the present report, it is also vital that the cease-fire agreement required by resolution 802 (1993) be implemented as soon as possible. As soon as the Serb side ratifies the agreement signed at Geneva, UNPROFOR will implement it, initially by redeploying its existing military forces and police. As explained in my earlier report (S/25555), such redeployment cannot be sustained without reinforcement, which would require:

(a) Two battalions of mechanized infantry of some 1800 all ranks;

(b) Two engineer companies of some 300 all ranks;

(c) Fifty UNMOs.

The implementation of resolution 802 (1993) is not only essential but would also help to regenerate momentum towards peaceful conditions and normalization which could help UNPROFOR to fulfil its tasks. However, UNPROFOR has neither the mandate nor the resources to impose the implementation of the resolution on the parties.

25. While the Council considers the above enhancements to the Force in Croatia, I would request it to approve an unrelated strengthening of the French battalion in Sarajevo by a further 150 all ranks, which the Force Commander judges necessary on the basis of the operational experience of the Force in that city.

26. In this connection, I must express my grave concern about the failure of Member States to pay their assessments to UNPROFOR in full and on time, as a result of which reimbursements to troop contributors have fallen several months behind schedule. Nine Member States contributing infantry battalions to UNPROFOR have formally conveyed to the Secretariat their difficulties with this delayed reimbursement. One State has announced its intention to leave the Force, and two others who have been approached to increase their participation have indicated that they would have serious financial problems in fulfilling the request. At the moment, therefore, the Secretariat knows of no Member State willing to contribute an infantry battalion to UNPROFOR, even if the implementation of the cease-fire agreement described in paragraph 24 above becomes feasible. I should like to appeal once again to Member States to honour their financial obligations to the Organization, without which the viability of United Nations peace-keeping will be threatened.

27. In conclusion, I should like to reiterate that it is of the highest importance that, parallel to the work of the peace-keeping force, a process of active negotiation under the auspices of the ICFY be pursued as soon as possible to find long-term political solutions to the question of the UNPAs and, indeed, to that of the relationship between Croats and Serbs in Croatia.

28. Preliminary estimates of the costs of the proposals made in paragraphs 22, 23 and 24 above will be circulated shortly as an addendum to the present report.